

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

20-cr-109-2 (JGK)

LUILLY FERNANDEZ,

ORDER

Defendant.

JOHN G. KOELTL, District Judge:

The defendant, Luilly Fernandez, moved to suppress any and all statements he made to law enforcement agents on the date of his arrest. (ECF. No. 61.) The Government responded that, although a statement he made should not be suppressed, the Government does not intend to introduce any post-arrest statement by the defendant as part of its case-in-chief and therefore the application should be denied as moot. (ECF. No. 62.) The Government reserves the right to use such statement for impeachment purposes if the defendant chooses to testify at trial. See, e.g., United States v. Douglas, 525 F.3d 225, 247-49 (2d Cir. 2008).

At this point, based on the Government's representation, the defendant's motion to suppress is denied as moot. The Government may not refer to any post-arrest statement of the defendant or seek to use any such statement at trial without

first raising the issue with the Court outside the presence of the jury. The Clerk is directed to close ECF Docket No. 61.

SO ORDERED.

**Dated: New York, New York
January 26, 2021**

**/s/ John G. Koeltl
John G. Koeltl
United States District Judge**